

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,) File No. CR-10-187
Plaintiff,) (MJD/FLN)
vs.) Minneapolis, Minnesota
(1) Amina Farah Ali and) October 4, 2011
(2) Hawo Mohamed Hassan,)
Defendants.)

BEFORE THE HONORABLE MICHAEL J. DAVIS and a Jury
UNITED STATES DISTRICT COURT JUDGE

(EXCERPTS FROM TRIAL REGARDING CONTEMPT)

Proceedings recorded by mechanical stenography;
transcript produced by computer.

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* * *

(Excerpt from trial)

* * *

(9:15 a.m.)

IN OPEN COURT

(JURY NOT PRESENT)

THE COURT: Would you have her come forward again.

8 Mr. Scott, last night -- yesterday afternoon you requested
9 the Court allow I believe at least three imams to talk to
10 your client, and as far as I know that occurred. Is that
11 accurate?

12 MR. SCOTT: It is, Your Honor. They were
13 people -- I think learned is a better way of saying it. I
14 don't know that they were all imams.

THE COURT: Learned in the Quran?

MR. SCOTT: Yes.

THE COURT: And they were able to talk to her?

MR. SCOTT: They were, Your Honor.

19 THE COURT: And is there any change in your
20 client's thoughts on standing during the opening and closing
21 of session?

22 MR. SCOTT: No, Your Honor.

23 THE COURT: All right. On September 30, 2011 the
24 Court ordered -- issued an order requiring all parties to
25 this proceeding to rise when the court is called to order,

1 that the Court has gone over that order with the defendant
2 and she continues to fail to comply with that order, and I
3 will find her in contempt this morning for the opening of
4 the pretrial session.

5 We will have the jury come up and we'll see how
6 things occur there and at recess, at noon. If I have to
7 again issue contempt citations, I will do that. And at the
8 end of the day I will also do that.

9 | * * *

10 | (Excerpt from trial)

11 | * * *

12 (2:20 p.m.)

IN OPEN COURT

14 (JURY NOT PRESENT)

15 THE COURT: We are out of the hearing of the jury.
16 Mr. Scott, please step forward with your client.

17 Let's swear the interpreter in.

18 THE CLERK: Please raise your right hand.

19 (Interpreter sworn.)

20 | THE COURT: All right. Mr. Scott.

21 MR. SCOTT: Your Honor, we had asked the Court to
22 have a hearing outside the presence of the jury. I want to
23 be able to report to the Court what my client went through
24 last night and I would rather have her talk about it herself
25 so that it's accurate.

1 But I believe that she was forcefully stripped
2 last night, I don't know if men were present when that
3 happened, and she was not allowed to wear her shawl, I am
4 using the wrong word here, but her head covering while in
5 custody; that she was in a room in which there was a camera
6 focused on her all night long in which she was afraid that
7 men would be watching her without her clothing while she
8 performed her bodily functions, so that she was not able to
9 do so.

10 Now, my report is secondhand, Your Honor, because
11 it's through bits and pieces from the interpreter, but I
12 would ask the Court if my client could explain what happened
13 to her last night.

14 THE COURT: Okay.

15 DEFENDANT ALI: Am I allowed to speak?

16 THE COURT: Yes.

17 DEFENDANT ALI: Do I need to talk about what
18 happened to me last night?

19 MR. SCOTT: Yes.

20 THE COURT: Yes. Excuse me. Can you speak
21 English?

22 DEFENDANT ALI: I cannot speak English.

23 THE COURT: All right.

24 DEFENDANT ALI: First, the reason I am here was
25 because of my religion.

1 Last night when I was asked to disrobe, I was -- I
2 told the people that was asking me that question that
3 because of my faith I am not going to disrobe. And when I
4 said that, there was these really strong people that came
5 into my cell and they threw me to the floor and then
6 forced -- what happened was they came to the cell and then
7 they threw me to the floor and then some of them actually
8 stepped on me. And they tried to handcuff me while some of
9 them were trying to disrobe me and they were too strong for
10 me and they stepped on me and they were wearing boots and,
11 you know, eventually they stripped me. And that's what
12 happened last night. That's what I experienced last night.
13 Eventually they disrobed me and they took all my clothing
14 off me.

15 The room that we were in when they came in to
16 disrobe me was a room that was not well lit and there was
17 also no running water. So when I told them that there was
18 no water and the room was not well lit, they took me to a
19 different cell.

20 Okay. When they took me to this other room, this
21 other room had lights, had lights all night long. There was
22 also a camera. I could see the camera. There was a
23 surveillance camera that was watching me all night long. I
24 could not use the toilet. I do have to admit that they gave
25 me a blanket, that I do have to admit.

1 What happened also yesterday was that at one point
2 I was actually saying my prayers and these people came to me
3 while I was saying my prayers and grabbed me by the hands.
4 They should have waited long enough for me to finish my
5 prayers and then they could do whatever they wanted to do.

6 Okay. You know, if I knew that they were waiting
7 for me I would have, you know, hurried and finished my
8 prayers and then they could do whatever they wanted to do.
9 And they didn't wait. They just grabbed me. There was a
10 female. There was also a male. And according to my own
11 religion, males should not have any physical contact with
12 me, but they did.

13 When I tried to explain the situation to them,
14 they told me that, you know, that this was not something
15 that they are concerned about, that the judge had ordered
16 them to do whatever they were doing.

17 Okay. And please I am requesting this from you.
18 If you decide to punish me, please do not violate my
19 religious rights and my humanity. That's all I'm requesting
20 from you at this point.

21 MR. SCOTT: What clothing did they put you into
22 last night?

23 DEFENDANT ALI: Okay. When they disrobed me they
24 actually forcibly put me in this jumpsuit and, you know,
25 there was about ten other people that were outside of the

1 cell. There was about -- a few other people that was inside
2 the cell. When they stripped me from what I was wearing,
3 then they forcibly put this jumpsuit on me.

4 MR. SCOTT: Were there any men present when that
5 happened?

6 DEFENDANT ALI: Yes, of course there was men.
7 There was quite a few men present.

8 Okay. After the assault I requested that I be
9 taken to the hospital because -- for fear I wasn't able to
10 get up. I told them that I needed to get some sort of
11 medical attention, but they never really honored that
12 request and eventually I was able to get up.

13 THE COURT: What kind of medical attention? What
14 was her needs?

15 DEFENDANT ALI: Okay. When they jumped on me,
16 they actually twisted my arms. They also put their foot on
17 my neck, so my neck was hurting. My arm was hurting. This
18 whole side was hurting. When they were doing this, they did
19 such a force that I was having physical pain.

20 This morning, that's when I realized that I did
21 not have any serious injury, that I didn't have any broken
22 bones. Last night I wasn't even able to get up. Last night
23 I was not able to stand up when I was saying my prayers. I
24 have to do or say my prayers while I was sitting.

25 MR. SCOTT: Were you able to have a head covering

1 during the evening?

2 DEFENDANT ALI: No. They took away all my
3 clothing. So last night I was not wearing anything that I
4 was wearing when I went in. This morning I told them that I
5 would not go to court unless I am allowed to wear my burqa
6 and that's the only thing that they gave me. The rest of
7 the clothing, they actually took them away from me.

8 THE COURT: Anything else you wish to tell me?

9 DEFENDANT ALI: Okay. I am here today and, you
10 know, whatever happened to me last night and whatever I am
11 dealing with here today is because of my religion. I feel
12 like I am being persecuted and, you know, I can no longer
13 tolerate this sort of punishment. I am requesting that this
14 sort of punishment be stopped and I be released.

15 THE COURT: Mr. Scott, anything further?

16 MR. SCOTT: Not in terms of putting forth the
17 facts, Your Honor.

18 THE COURT: Do you wish to argue?

19 MR. SCOTT: Yes, Your Honor. I'm concerned that
20 my client was not allowed to cover her head. It is part of
21 her religion. I understand that the marshals -- excuse
22 me -- actually the deputy sheriffs have security needs. It
23 seems to me that this was harsher than needed to be.

24 But I am mostly concerned that in her position,
25 she was in a position where she was either partially or

1 fully unclothed in the presence of men, leading her, I think
2 reasonably, to believe that while she was on camera that she
3 could well have been under surveillance by men. In her
4 culture and her religion they do blend together. Being
5 unclothed in front of men is very close to the kind of
6 violations that we think of as rape.

7 And so that I think reasonable precautions have to
8 be taken so that she is not in that position, and I think
9 that is a reasonable position to take even understanding the
10 needs of -- the security needs of the institution.

11 THE COURT: All right. Anything for the
12 Government?

13 MR. PAULSEN: Your Honor, my understanding is that
14 there was an incident and a report was written. I believe
15 it was provided to the Court. I haven't seen it, but I am
16 told that this account differs markedly from what is in the
17 report.

18 It's my understanding that Ms. Ali was not
19 compliant with reasonable requests of the jailers. She did
20 have to be disrobed, but I am told that there were no men
21 present and steps were taken to prevent any males or
22 unauthorized people from being able to see into the room
23 where this was being done. But I have not seen the report,
24 Your Honor.

25 THE COURT: Well, I've got the reports and you can

1 understand that early this morning I had received knowledge
2 of some incidents. So, of course, since you are in my care
3 I wanted to make sure that I had all the information
4 possible. I met with Marshal Lubinski regarding this matter
5 and I have received the reports.

6 Now, the question is -- we have had a lot of
7 things happen before we even get started with this trial.
8 We are about to get started with this trial and if we could
9 back up for just a few minutes and maybe you can explain to
10 me why you are taking the route that you are taking dealing
11 with not honoring the Court's order in standing.

12 You had three learned elders talk to you last
13 night regarding your interpretation not of the Quran, but of
14 the Hadith. And you are putting yourself in the position --
15 you are wrapping yourself around saying this is a religious
16 matter. And the Court has had many Somalis come before it.
17 There's many Somalis going to court in state court. And I
18 can understand that you're not happy to be here, but your
19 elders are even telling you that your interpretation is
20 wrong.

21 So you've ended up with the Court having to take
22 certain action and with that action, when you are taken into
23 custody, there are certain security concerns that have to be
24 taken care of.

25 I am willing to work with the marshal to make sure

1 the appropriate conditions and handling of you as a female
2 is done properly. However, I am not going to intercede into
3 the security issues of the jail because then -- unless those
4 security issues are in violation of the Constitution or the
5 laws.

6 If you refuse to do something, you understand the
7 consequences of that. I'm assuming that when you were
8 growing up if you did not obey your parents there were
9 consequences. I'm assuming that in your culture if you did
10 not obey your husband there would be consequences. So
11 understanding what consequences are is not a foreign concept
12 to you.

13 DEFENDANT ALI: Are you done?

14 THE COURT: I'm not done yet. The Court will
15 continue to keep you in custody and we will have the
16 appropriate -- because Marshal Lubinski has great contacts
17 in the Somali community, we will make sure there's the
18 appropriate care of you and making sure that your modesty is
19 covered.

20 However, if there's security issues that the
21 Sherburne County Jail has to deal with, you are going to
22 have to comply with those matters. I'm not going to get
23 into the situation of what happened last night at this
24 point.

25 I will see how you handle yourself tonight because

1 we will make sure that the necessary modesty concerns will
2 be taken care of and -- but also the security concerns of
3 the jail will be taken care of.

4 And, of course, if you do not follow those orders,
5 just like any other prisoner, the Sherburne County officials
6 will have the authority to handle you in the way they see
7 fit under the law and the Constitution.

8 Now, it's also come to my attention that you are
9 not eating and I don't know what the situation is on that,
10 but, again, within the parameters of the jail and your
11 religious beliefs, Mr. Scott can inform us what is necessary
12 for you to eat and that can be provided by the jail and that
13 will be provided to you, along with any and all other food
14 that any of the other detainees are eating. Of course no
15 food that would violate your religious beliefs will be given
16 to you. However, I do want you to eat.

17 Mr. Scott, dealing with the question of eating, do
18 you know about that?

19 MR. SCOTT: I know something about it, Your Honor,
20 and it's premature for me to say anything at this point.

21 DEFENDANT ALI: Okay. If my religious beliefs are
22 violated -- you know, eating is not really a big concern to
23 me at this point. I am losing something that is far more
24 important to me than just eating. So eating is a minor
25 issue for me.

1 But there is also another thing that I would like
2 to talk about. They have violated something, you know, that
3 I thought I have rights to have and, you know, living
4 without dignity doesn't mean anything to me.

5 THE COURT: All right. Well --

6 DEFENDANT ALI: Okay. As far as, you know,
7 standing up for the court, that -- you know, as far as
8 religion concerns, some people believe, you know, they have
9 choices as far as how they want to follow their religion.
10 And as far as I am concerned, you know, my understanding is
11 that I have to follow what I think is the right way and
12 that's what I have been doing.

13 THE COURT: Well, not to -- have you talked to
14 your husband at all?

15 DEFENDANT ALI: Who do I need to speak to?

16 THE COURT: Your husband.

17 DEFENDANT ALI: I do know the religion. I don't
18 need to speak to him. As far as my religion is concerned,
19 you know, you don't have to listen to anyone, even your own
20 parents. The only person that you need to listen to -- the
21 only thing that you need to listen to is Allah and that is
22 what I have been doing. You can, you know, obey your
23 husband and obtain his, you know, acceptance, anything else
24 except what Allah mandates me to do.

25 THE COURT: All right. My question again is:

1 Have you talked to your husband?

2 DEFENDANT ALI: Okay. You know, why should I do
3 so? I've been violated. I've been stripped naked. I was
4 naked. They jumped on me. You know, I don't have time to
5 do so.

6 THE COURT: Have you talked to your husband?

7 DEFENDANT ALI: When did I need to speak to him?

8 THE COURT: Yesterday.

9 DEFENDANT ALI: Yesterday I didn't speak to him.
10 He had sent me to clerics. Those are the people that I
11 spoke to. We spoke to each other about religion and, you
12 know, when I spoke to them I was firm in what I told them.

13 And what they were telling me was that sometimes,
14 you know, you may have a choice if you are trying to avoid
15 getting into some kind of serious trouble, you know, but I
16 have told them that I intend to do what I need to do.

17 THE COURT: And the clerics that came to talk to
18 you last night, would you agree that they are learned
19 clerics?

20 DEFENDANT ALI: I do know that they were learned
21 men that came to speak to me, but they didn't show me any
22 proof as to what they were trying to tell me. I do know
23 enough about the religion to be able to understand my own
24 understanding of the religion.

25 THE COURT: So you would agree that your husband

1 sent three learned clerics to talk to you?

2 DEFENDANT ALI: Okay. Yes, he did send those men
3 to me and we had a discussion about religion. We always
4 have debates about, you know, the religion. That's not a
5 big deal.

6 THE COURT: And you would agree that your husband
7 is a reasonable and honorable man?

8 DEFENDANT ALI: Um-hmm, yes.

9 THE COURT: And he's a follower of the Prophet
10 Muhammad?

11 DEFENDANT ALI: Yes, but he may not know, you
12 know, a lot of Hadith or sayings of the prophet.

13 THE COURT: And you understand there's 10,000
14 Hadiths and that there's many interpretations of those
15 Hadiths?

16 DEFENDANT ALI: I think there's more than 10,000.

17 THE COURT: All right. And the Sunnis and the
18 Shias have different beliefs on dealing with the Hadiths?

19 DEFENDANT ALI: Sunnis have differences.

20 THE COURT: Well, the Shias do not agree with the
21 Sunnis' Hadiths?

22 DEFENDANT ALI: Yes, they do not. They --

23 THE COURT: And the Hadiths are oral stories that
24 have been passed down over centuries?

25 DEFENDANT ALI: Um-hmm. It's --

1 THE COURT: And even the most learned scholars of
2 Islam have disagreements on what the Hadiths are, would that
3 be accurate, and what they mean?

DEFENDANT ALI: Usually the disagreement, it's
actually about people voicing their opinions. If it's true
verses or Hadith, usually there aren't that many
disagreements. The disagreements are usually when people
try to interpret their own ways and come up with their own
explanations and understanding.

10 THE COURT: Isn't that what you are trying to do
11 here today?

12 DEFENDANT ALI: Okay. The Hadith itself -- there
13 are Hadith that men actually came up with that are not
14 actually the sayings of the Prophet Muhammad. It's
15 something that some men just came up with at some point.

16 Okay. Yesterday when these clerics came to me and
17 they presented their opinion to me, what they were telling
18 me was that, you know, if you are in a difficult situation,
19 if you are fearful of your own life, then sometimes you may
20 stand up for someone or you may do things that otherwise you
21 did not want to do, but there was no disagreement that it
22 would be better if you don't stand for anyone.

23 THE COURT: And can you tell me why you stood for
24 the jury when you were introduced?

25 DEFENDANT ALI: At that time I wasn't actually

1 standing up as a sign of respect. It was more like for them
2 to see me. I was standing so they can see me because I was
3 being introduced to them and I was trying to introduce them
4 to myself.

5 THE COURT: Well, we are going to begin this
6 trial. The record has been made by your attorney,
7 Mr. Scott, regarding the incident in the jail last night and
8 also you have had an opportunity to explain to the Court
9 what you think happened to you.

10 And I have explained to you that the Court will
11 continue to discuss this matter with the United States
12 Marshal for the District of Minnesota to make sure that in
13 compliance of security needs your religious beliefs will be
14 honored. However, you should be aware that the security
15 aspect of the jail will take precedence over your religious
16 beliefs. Your modesty will be protected.

17 And if there's any further needs dealing with your
18 dietary consumption, Mr. Scott will get that to the Court so
19 I can transmit that to the jail.

20 Now, as to your conduct this morning, you did not
21 rise for court at the beginning of the session without the
22 jury or when the jury was brought in. You were aware of the
23 Court's order of September 30, 2011. You did not comply
24 with that order for you to stand. The Court finds that you
25 are in contempt on those two times. You did not stand when

1 we adjourned at lunch. The Court finds that you are in
2 contempt.

3 And again you're sentenced to on each count five
4 days in custody and each of those contempt matters will run
5 consecutive and will follow -- be imposed at the end of this
6 trial. You will remain in custody.

7 All right. Anything else, Mr. Scott?

8 MR. SCOTT: No, Your Honor.

9 | * * *

10 | (Excerpt from trial)

11 | * * *

12 (5:05 p.m.)

13 | IN OPEN COURT

14 (JURY NOT PRESENT)

20 I find that you are in contempt of court and you
21 will have a sentence of five days and that's consecutive to
22 all other contempt charges that I have levied so far and
23 that will be -- the five days will be served at the end of
24 this case.

* * *

(Excerpts from trial concluded)

* * *

6 I, Lori A. Simpson, certify that the foregoing is a
7 correct transcript from the record of proceedings in the
8 above-entitled matter.

Certified by: *s/ Lori A. Simpson*

Lori A. Simpson, RMR-CRR